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FISCAL IMPACT REPORT

SPONSOR: Cisneros DATE TYPED: 03/10/03 HB _____
 SHORT TITLE: Rural Electric Co-op Subsidiaries SB 464/aSCONC/aHENRC
 ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Section 3 of Senate Bill 172 and House Bill 292
 Duplicates House Bill 563 and Senate Bill 350

SOURCES OF INFORMATION

Office of the Attorney General
 Public Regulation Commission (PRC)
 Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of HENRC amendment

The House Energy and Natural Resources Committee (HENRC) amendment to the amended Senate Bill 464 clarifies that the PRC regulatory approval is not needed for the issuance, assumption or guarantee of any security where the federal government has oversight responsibility.

Synopsis of SCONC amendment

The Senate Conservation Committee (SCONC) amendment to Senate Bill 464 clarifies the language in the original bill to ensure that total investments, loans, guarantees, and pledges of assets of a rural electric cooperative do not exceed 20 percent. The amendment also clarifies that the subsidiaries must still obtain all necessary state and federal regulatory approvals required to provide such service or product. Finally, the amendment clarifies that the PRC will not have regulatory oversight for rural electric cooperatives, in accordance with current law.

Synopsis of Original Bill

Senate Bill 464 proposes three major changes to existing statutes:

- The bill amends the Rural Electric Cooperative Act and several sections of the Public Utility Act to allow rural electric cooperatives to create and invest in subsidiaries for limited purposes (energy services, telecommunications and cable and satellite television and wastewater collection and treatment) without approval of the PRC.
- The bill eliminates the requirement for rural electric cooperatives to seek PRC approval of federally approved securities.
- The bill repeals the delayed repeal (July 1, 2003) of the Public Utility Act, Chapter 63 Article 7 NMSA 1978, the Telephone and Telegraph Company Certification Act, the New Mexico Telecommunications Act, and the Cellular Telephone Services Act.

Significant Issues

Subsidiary Diversification. Entrance into similarly regulated utility markets can be an opportunity and good fit for rural electric cooperatives to diversify its financial portfolio and potentially increase its profit margin. In fact, in rural areas, cooperatives may be a good choice as a service provider of new telecommunication products as an example, particularly in areas where incumbent or competitive local exchange carriers have been uninterested in providing services. On the other hand, risk could increase, leaving co-op members vulnerable to price fluctuations for the traditional electric services provided.

PRC Approval of Federally Approved Securities. By statute, rural electric coops already enjoy expedited processing of financing applications at the PRC without hearings for securities offered through an agency of the federal government. This bill would eliminate the obligation of the coop to seek prior approval from the PRC. Under existing Commission rules, coops would still be required to file notice with PRC when the coop submits loan applications to agencies of the federal government.

Delayed Repeal Issue. According to the PRC, allowing the delayed repeals to remain will eliminate price and quality of service regulation, which would create unregulated public utility monopolies.

FISCAL IMPLICATIONS

Senate Bill 464 does not contain an appropriation. Its enactment is not expected to have a fiscal impact on any state agency.

Delayed Repeal Issue. The PRC points out a potential revenue loss if its regulatory authority is removed over public utilities. The agency receives approximately \$12 million annually in fees paid by utilities under the Public Utility Act and the other acts addressed in this bill.

OTHER SUBSTANTIVE ISSUES

The Office of the Attorney General reports the following concern with the new subsection on Page 5, Subsection E:

. . .(the language) is much too broad in its exemption of securities approval from the PRC when the utility's securities "are subject to oversight and approval by the federal government or any of its agencies or subdivisions". This exemption could apply to other non-coop utilities if they have holding companies and their securities are subject to SEC approval and would detrimentally affect state regulation of investor-owned utilities. It should be reworded to limit the exemption from state PRC review to those securities are subject to oversight by the USDA Rural Utility Service¹.

MFV/prr

¹ Under the authority of the federal Rural Electrification Act of 1936, the USDA Rural Utilities Service makes direct loans and loan guarantees to electric utilities to serve customers in rural areas for construction of electric distribution, transmission and generation facilities.